IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.1838 OF 2003
IN
SUM.SUIT NO.2439 OF 1996

Crest Paper Mills Ltd. ..Plaintiffs

Vs.

M/s.Kartik's Oldfort
International & ors. ..Defendants

....
K.G.S.Tripathi for Planitiffs
None for Defendant
....

CORAM : S.U.KAMDAR,J.
DATE : JANUARY 11,2005

P.C.:

1. The present Chamber Summons is taken out for leave to withdraw the amount of Rs.79,100/- which is lying along with accrued interest with the office of Prothonotary and Sr.Master, High Court, Bombay. Some of the material facts are as under:

2. In a summary suit filed by the plaintiffs, the defendants did not file leave to defend by filing their Vakalatnama and accordingly on 27th October, 1999 an exparte decree came to be passed as against the defendants. The plaintiffs served on the defendants the Insolvency notice and consequently defendants took out Notice of Motion No.1291 of 2000 for setting aside the said exparte decree dated 27th October,1999. On 24th April, 2000 the defendants were directed to deposit the sum of Rs.50,000/- in

the Court which the defendants have deposited and on the basis of such deposit, said Notice of Motion No.1291 of 2000 was made absolute and exparte decree dated 27th October, 1999 was set aside.

3. Thereafter, the plaintiffs took out Summons for Judgment in view of the fact that defendants had filed their Vakalatnama and sought leave to defend. The said Summons for Judgment being No. 336 of 2001 was thereafter served upon the defendants but the defendants did not appear nor file any reply to the said Summons for Judgment. Consequently on 18th December, 2002 the learned Single Judge of this Court, has passed decree once again for an amount of Rs.1,02,117-44 along with further interest at the rate of 18% per annum. By the present Chamber Summons plaintiffs are seeking that the amount which is lying deposited pursuant to the order passed in Notice of Motion No. 1291 of 2000 to be permitted to be withdrawn by the plaintiffs towards part satisfaction of the decretal amount. The defendants are served with the present Chamber Summons. Inspite of service, no reply has been filed. In fact, on 10th December, 2004 the learned advocate for the defendants sought time and the matter was adjourned for one week. However, even today there is no reply to the present Chamber Summons. In view thereof, the Chamber Summons is made absolute in terms of prayer clause (a). No order as to costs.

[S.U.KAMDAR,J.]